

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of:)	
)	
Family Stations, Inc.)	
)	CSR-5929-A
For Modification of the Sacramento-)	
Stockton-Modesto, California DMA)	

MEMORANDUM OPINION AND ORDER

Adopted: November 7, 2002

Released: November 13, 2002

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Family Stations, Inc., licensee of television broadcast station KFTL, Stockton, California ("KFTL"), filed the above-captioned petition for special relief seeking to modify the Sacramento-Stockton-Modesto, California designated market area ("DMA") to include 155 communities located within the San Francisco-Oakland-San Jose, California DMA. Comments in response to KFTL's petition were filed by the municipally-owned cable system operated by the City of San Bruno, California. An opposition was filed on behalf of AT&T Broadband LLC ("AT&T"). KFTL responded to both pleadings.

II. BACKGROUND

2. Pursuant to its decision in *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*,¹ the Commission, in an effort to promote administrative efficiency, adopted a standardized evidence approach for modification petitions. This approach, codified in Section 76.59(b) of the Commission's rules, requires that the following evidence be submitted:

(1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.

(2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas.

Note to paragraph [2]: Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.²

¹ 14 FCC Rcd 8366, 8385 (1999) ("Modification Final Report and Order").

² The Longley-Rice model provides a more accurate representation of a station's technical coverage area because it takes into account such factors as mountains and valleys that are not specifically reflected in a traditional Grade B
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- (3) Available data on shopping and labor patterns in the local market.
- (4) Television station programming information derived from station logs or the local edition of the television guide.
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.
- (6) Published audience data for the relevant station showing its average all day audience (i.e., the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.³

Petitions for special relief to modify television markets that do not include the above evidence shall be dismissed without prejudice and may be re-filed at a later date with the appropriate filing fee.⁴ Parties may continue to submit whatever additional evidence they deem appropriate and relevant.

III. DISCUSSION

3. In our review, we note that KFTL has failed to comply with the requirements set forth in the *Modification Final Report and Order*. While KFTL did provide a map showing its predicted City Grade, Grade A, and Grade B signal contours and a map purportedly showing terrain features, neither map clearly delineated the relevant cable communities along with geographic features, station transmitter site, and cable system headend locations (factors 1 and 2).⁵ The information, as provided, is not sufficient to make a reasoned analysis. KFTL did not explain why more complete and detailed information was not submitted.

4. In addition to KFTL's deficiencies in complying with our standardized modification evidence, we note that AT&T points to a discrepancy in the list of communities requested for inclusion by KFTL. AT&T states that a number of the listed communities may have been merged with other communities and no longer exist independently. If it re-files, KFTL should clarify the actual communities to be included in its petition. In light of KFTL's failure to provide the information required by Section 76.59, its petition for special relief will be dismissed without prejudice. KFTL may re-file its request at a later date.

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contour analysis. In situations involving mountainous terrain or other unusual geographical features, Longley-Rice propagation studies can aid in determining whether or not a television station actually provides local service to a community under factor two of the market modification test. *See Modification Final Report and Order*, 14 FCC Rcd at 8388.

³ 47 C.F.R. § 76.59(b).

⁴ 47 C.F.R. §§ 76.7, 76.59(c).

⁵ *See* 47 C.F.R. § 76.59(b)(1)-(2). The map KFTL identifies as its terrain map appears to be simply a larger version of its signal contour map. *See* KFTL Petition at Exhibit V.

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, pursuant to Section 614(h) of the Communications Act of 1934 and Section 76.59(c) of the Commission's rules, that the petition for special relief, filed by Family Stations, Inc. **IS DISMISSED WITHOUT PREJUDICE**.⁶

6. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.⁷

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
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⁶ 47 U.S.C. § 534(h); 47 C.F.R. § 76.59(c).

⁷ 47 C.F.R. § 0.283.